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2 JONATHAN T. PECK - #12303 (VA)
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5 COMMISSION
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33 UNITED STATES DISTRICT COURT
34 NORTHERN DISTRICT OF CALIFORNIA

35 EQUAL EMPLOYMENT OPPORTUNITY
36 COMMISSION,
37 Plaintiff,
38 JOSEPH MICHAEL LOWE,
39 Plaintiff-Intervener
40 v.
41 MONTEREY COLLISION FRAME AND
42 AUTO BODY, INC.,
43 Defendant.

44 Civil Action No. Civ. C-06-6032-JF
45 CONSENT DECREE

I. INTRODUCTION

1. Plaintiff, EEOC, filed this action on September 28, 2006 alleging that defendant, Monterey Collision Frame and Auto Body, Inc., (“Defendant” or “Monterey Collision”) subjected Joseph Michael Lowe to a racially and sexually hostile work environment based on his race (Asian) and sex.

2. Mr. Lowe was granted intervention on April 20, 2007. This case was settled before Mr. Lowe filed his Complaint-in-Intervention.

3. The EEOC, Intervener and Defendant want to conclude fully and finally all claims arising out of the above action without the expenditure of further resources and expenses in contested litigation. They enter into this Consent Decree to further the objectives of equal employment opportunity as set forth in Title VII.

II. NON-ADMISSION OF LIABILITY

1. This Consent Decree is not an adjudication or finding on the merits of this case and shall not be construed as an admission of a violation by Defendant.

III. PURPOSE OF THE DECREE

1. The parties have entered into this Consent Decree in order to achieve the following purposes:

a. To insure the implementation of policies and procedures which prohibit Defendant from discriminating or retaliating against employees on the basis of race and sex.

b. To insure that Defendant implements a policy and enforcement program to effectively prevent discrimination based upon race and sex.

c. To insure that the aggrieved individual is fully compensated for damages suffered in connection with the alleged discrimination by Defendant.

d. To avoid the time, expense and uncertainty of further litigation.

IV. GENERAL PROVISIONS

1. This Consent Decree is intended to and does effectuate the full, final, and complete resolution of all allegations of unlawful employment practices and discrimination arising from or relating to the original discrimination charge of discrimination, EEOC Charge

1 Number 377-2005-00119 and the Complaint filed in EEOC v. Monterey Collision Frame and
2 Auto Body, Inc., Civil No.C-06-6032-JF pursuant to Title VII of the Civil Rights Act of 1964.

3 2. This Consent Decree in no way affects EEOC's right to process, in accordance
4 with standard Commission procedures, charges filed by individuals against Defendant alleging
5 violations of Federal employment discrimination statutes. Charges include those pending as of
6 the effective date of this Consent Decree and filed in the future. Processing includes the
7 administrative investigation and conciliation and commencement of civil actions on the basis of
8 such charges.

9 3. This Court has jurisdiction over the subject matter and the parties to this action.

10 4. This Consent Decree constitutes a full resolution of EEOC's Complaint, the
11 Intervener's claims and the underlying charge of discrimination filed with the EEOC.

12 5. This Consent Decree shall become effective upon its entry by the Court.

13 6. Each party shall bear its own costs and attorney fees.

14 7. The Court has reviewed the terms of this Consent Decree in light of the pleadings,
15 the record herein, and the applicable law, and now approves the Consent Decree in its entirety.

16 **V. MONETARY RELIEF & RELATED RELIEF**

17 1. In settlement of the claims for employment discrimination alleged in the
18 Complaint and Intervener's Proposed Complaint or related to this lawsuit, Defendant agrees to
19 pay the gross sum of \$ 45, 000.00 (Forty-five thousand) to Mr. Lowe.

20 2. Payment to Mr. Lowe shall be made in equal monthly installments over nine
21 months. The payments will be made to Mr. Lowe's attorney, Reg Lormon, in trust for Mr.
22 Lowe. The payments will be due on the first day of each month, beginning the month after the
23 parties sign the Consent Decree and it is entered as a judgment by the Court.

24 3. Should Monterey Collision fail to make a required payment by the 10th of any
25 month that said payments are due, then the entire settlement amount will be accelerated.
26 Monterey Collision stipulates that Mr. Lowe and/or EEOC may enter judgment for the remaining
27 balance with a credit for any amounts then paid. As further security for its payment obligations,
28 Monterey Collision will provide Mr. Lowe with an executed Security Agreement, lien, and

1 U.C.C. Financing Statement on its equipment, as reflected in Exhibit A, which Mr. Lormon will
2 hold, and not record or file or otherwise employ, unless and until Monterey Collision fails to
3 make any of its required payment by the 10th of any month said payments are due. Prior to the
4 recording of the equipment lien or exercising any of Mr. Lowe's rights, under or through it or
5 entry of judgment by reason of a missed payment, Mr. Lowe and/or EEOC agree to provide
6 Monterey Collision's counsel with written notice and forty-eight (48) hours to cure the defaulted
7 payment. Any subsequent exercise of Mr. Lowe's rights to enforce Monterey Collision's
8 payment obligation to him through the security equipment lien and U.C.C. Financing Statement,
9 this Paragraph V Order and/or Judgment are cumulative and not exclusive until Monterey
10 Collision's monetary obligation to him set forth herein is fully satisfied.

11 4. Monterey Collision, on behalf of itself, its officers, shareholders, directors,
12 trustees and agents, agrees that, effective April 30, 2007, it will not further encumber any of its
13 equipment to which the lien attaches until the monetary obligation set forth in this agreement is
14 paid in full.

15 5. The monetary relief shall be issued in checks drafted to Mr. Lowe's attorney, Reg
16 Lormon, in trust for Mr. Lowe, and delivered to Mr. Lormon by Federal Express. Defendant
17 shall make all payments called for herein in the form of a business check, cashier's check, or
18 certified check. Defendant also will issue an IRS Form 1099 for the check issued pursuant to
19 this paragraph.

20 a. Defendant will mail the copies of each payment to Sanya Hill Maxion,
21 Senior Trial Attorney for the EEOC, at 350 The Embarcadero, San Francisco, CA 94105.
22 Defendant shall also mail to Sanya Hill Maxion a copy of the IRS Form 1099 in accordance with
23 Federal law.

VI. GENERAL INJUNCTIVE RELIEF

25 1. Discriminatory Harassment: Consistent with Section 703 of Title VII, 42 U.S.C.
26 §2000e-2, Defendant, its officers, agents, managers (including supervisory employees),
27 successors and assigns, and all those in active concert or participation with them, shall comply
28 with all requirements of Title VII with respect to providing a work environment free from

1 discrimination on the basis of race and sex free from any action, policy or practice that is
2 intended to or known to them to have the effect of harassing or intimidating any employees on
3 the basis of race or creating, facilitating or permitting the existence of a work environment that is
4 hostile to employees based on their protected status.

5 2. Retaliation: Consistent with Section 704 of Title VII, 42 U.S.C. §2000e-3,
6 Defendant, its officers, agents, managers (including supervisory employees), successors or
7 assigns, and all those in active concert or participation with them, are enjoined from engaging in,
8 implementing or permitting any action, policy or practice with the purpose of retaliating against
9 any of the Claimants or any person who was identified as a possible claimant or witness in this
10 action because they opposed any practice of harassment or other discriminatory acts on the basis
11 of race made unlawful under Title VII, filed a Charge of Discrimination alleging any such
12 practice, or testified or participated in any manner in any investigation (including, without
13 limitation, any internal investigation undertaken by Defendant), proceeding or hearing in
14 connection with this case.

VII. SPECIFIC INJUNCTIVE RELIEF

16 1. Defendant will incorporate the following “Statement of Zero-Tolerance Policy
17 and Equality Objectives” in its EEO and Harassment Policy:

18 Defendant is firmly committed to maintaining a zero-tolerance
19 policy concerning discriminatory harassment and retaliation
20 against individuals who report harassment in the company's
21 workplace; to swiftly and firmly responding to any acts of
22 harassment and retaliation of which the company becomes aware;
23 to implementing a disciplinary system that is designed to strongly
24 deter future acts of harassment or retaliation; and to actively
25 monitoring its workplace in order to ensure tolerance, respect and
26 dignity for all people.

1 2. In order to accomplish the objectives embodied in the Statement of Zero-
 2 Tolerance Policy and Equality Objectives and this Consent Decree, Defendant shall further
 3 develop and implement the following policies, procedures and practices:

4 ***EEO and Harassment Policies***

5 a. Defendant agrees that to the extent necessary it shall issue a
 6 separate policy or modify its existing EEO & harassment policies,
 7 within forty-five (45) days of signing the Consent Decree, such
 8 that the policies: (i) include definitions of discriminatory
 9 harassment, with specific reference to harassment based on race
 10 and sex (ii) include examples to supplement the definitions of
 11 harassment based on race and sex; (iii) provide for substantial
 12 discipline and/or corrective action for incidents of discriminatory
 13 harassment; (iv) include strong non-retaliation language with
 14 examples to supplement the definition of retaliation, (v) provide
 15 for substantial discipline for incidents of retaliation; (vi) provide
 16 that complaints of harassment and/or retaliation will be accepted
 17 irrespective of whether they are made verbally or in writing; (vii)
 18 explain that Defendant will conduct a prompt and thorough
 19 investigation after a complaint is made or received and will take
 20 remedial action upon conclusion of an investigation; and (viii)
 21 indicate that, promptly upon the conclusion of the investigation of
 22 a complaint, Defendant will communicate to the complaining party
 23 the results of the investigation and the remedial actions taken or
 24 proposed, if any.

25 b. Defendant shall effectively disseminate its revised policies
 26 and procedures by:

27 i. Distributing copies to all current employees within
 28 10 days of its adoption;

ii. Giving a copy of the policy to and reviewing the policy with all new employees upon the employees' hire.

c. Defendant will submit a copy of the revised EEO and harassment policies to EEOC at the same time it submits its report on the completion of training as described below in Section IX.

Complaint Procedures:

d. Defendant shall develop or revise its complaint policies and procedure to the extent necessary, such that they are designed to encourage employees to come forward with complaints about violations of its harassment policy without fear of retaliation. As part of the policy, Defendant shall provide its employees with convenient, confidential and reliable mechanisms for reporting incidents of harassment and retaliation. Defendant's complaint procedure and harassment policy shall notify employees that they can lodge a complaint with their immediate supervisor and the Defendant's owner Rob Snow and shall provide the name and telephone numbers for those contact persons. Contact information for managers and owner Rob Snow also shall be continuously posted in a prominent place at all of Defendant's business locations.

e. Defendant will submit a copy of the complaint procedures to the EEOC at the same time it submits its certification of completion of training as required by Section IX.

Supervisor Accountability.

f. Defendant agrees that it shall impose substantial discipline – up to and including termination, suspension without pay or demotion – upon any supervisor or manager who Defendant determines has engaged in harassment or has knowingly permitted

any such conduct to occur in his or her work area or among employees under his or her supervision, or who Defendant determines has retaliated against any person who complains or participates in any investigation or proceeding concerning any such harassment.

g. Defendant shall communicate this policy to all current supervisors and managers when it disseminates its revised EEO and harassment policies or no later than 30 days after entry of this Decree if the policy does not require revision.

h. Defendant shall communicate this policy to all other supervisors and managers at the time they are hired or promoted to supervisor/manager and subsequently, on an annual basis.

i. Defendant shall advise all managers and supervisors of their duty to actively monitor their work areas to ensure employee compliance with the harassment policy, and to report any incidents and/or complaints of harassment and/or retaliation of which they become aware to the Director of Human Resources.

Harassment Training

j. During the term of this Consent Decree, Defendant will present to its employees, including managers and supervisors, one two (2) hour mandatory anti-harassment training, introduced and supported by its owner, Robert Snow, covering prevention of harassment and the issues covered by the policy described in Section 2(a) above.

i. The training shall be developed and presented by an outside professional, i.e. someone who is not employed by Defendant, who is knowledgeable about Title VII and discriminatory harassment and who has the background,

1 skill and ability to educate Defendant's employees about
2 the issue of discriminatory harassment in the workplace.

3 The training will include examples of the types of remarks
4 and behavior that will not be tolerated in Defendant's
5 business location. The training will further inform each
6 participant that he or she is responsible for knowing and
7 complying with the contents of Defendant's EEO and
8 harassment policies and procedures.

9 ii. Supervisors and/or managers who will assume
10 responsibility for enforcing Defendant's EEO and
11 harassment policies upon expiration of the Consent Decree
12 shall also receive training on appropriate techniques for
13 documenting and investigating complaints of harassment.

14 The training on investigative techniques can be included as
15 a component of the mandatory discriminatory harassment
16 training.

17 k. The cost of the training described in paragraph j, above,
18 shall be borne by Defendant.

19 l. Following the training session, all participants shall be
20 given a questionnaire through which they will be asked to critique
21 the training and to provide suggestions to improve future training.

22 m. Defendant will retain records of the training programs,
23 copies of any materials distributed during the training and lists
24 documenting the dates on which it held the training and identifying
25 the persons who attended and those who did not attend. Defendant
26 will provide a copy of these records, the training materials and the
27 completed post-training questionnaires to the Commission within
28 thirty (30) days of completion of the training.

VIII. EMPLOYMENT REFERENCES

1. Defendant shall not disclose any information or make references to any charges of discrimination or this lawsuit in responding to employment reference requests for information about Joseph Michael Lowe. Defendant will provide only neutral references in response to inquiries from prospective employers of Joseph Michael Lowe providing only inclusive dates of employment, job title and salary. However, in order for this provision to apply, Joseph Michael Lowe must direct all persons seeking references to Defendant's owner, Rob Snow.

IX. REPORTING

9 1. Six months after entry of the decree and again every six months thereafter,
10 Defendant will submit reports to the EEOC summarizing any complaints of racial and sexual
11 harassment received by Defendant during the preceding six-month period. The reports will
12 include the identities of the complainant(s) unless the complainant requests confidentiality and
13 the alleged harasser(s), a summary of action taken in response to the complaint and the resolution
14 of any such complaint. In cases where the complainant has requested confidentiality, Defendant
15 may refer to the complainant by a unique numerical identifier, but shall include all information
16 (i.e. identity of the alleged harasser, summary of action taken and resolution of complaint) in the
17 report to the Commission. Defendant will attach copies of the corresponding written records.

18 2. Within thirty (30) days after completion of the anti-harassment training described
19 in Section VII (j) above, Defendant will send the EEOC appropriate verification of its
20 completion of harassment training for its employees and copies of the post-training
21 questionnaires.

22 3. Defendant shall submit a final report to the EEOC thirty (30) days before the
23 Consent Decree expires containing a statement verifying its compliance with the terms of the
24 Consent Decree.

X. RETENTION OF JURISDICTION AND EXPIRATION OF CONSENT DECREE

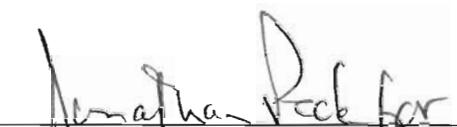
26 1. This Consent Decree shall terminate three years (3 years) from the date of entry
27 by the court, unless EEOC petitions this court for an extension of the Decree because of
28 noncompliance by Defendant. If EEOC determines that Defendant has not complied with the

1 Consent Decree, EEOC will provide written notification of the alleged breach to Defendant and
2 will not petition the court for enforcement sooner than thirty (30) days after providing written
3 notification. The thirty-day period following written notice shall be used by the parties for good
4 faith efforts to resolve the issue. If EEOC petitions the court and the court finds Defendant to be
5 in substantial violation of the terms of the Decree, the court may extend this Consent Decree.

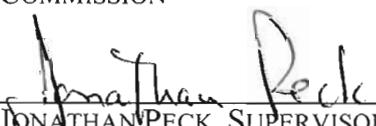
6 2. This Court shall retain jurisdiction over this action for the purposes of enforcing
7 the provisions of this Consent Decree. This Consent Decree shall expire by its own terms at the
8 end of three (3) years without further action by the parties.

9 RESPECTFULLY SUBMITTED,

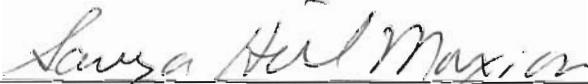
10 DATED: 8/23, 2007


WILLIAM TAMAYO, REGIONAL ATTORNEY
U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

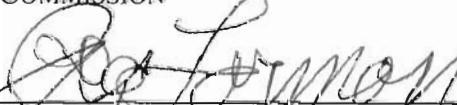
13 DATED: 8/23, 2007


JONATHAN PECK, SUPERVISORY TRIAL ATTORNEY
U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

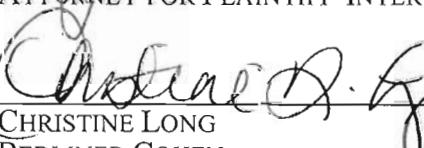
16 DATED: 8/23, 2007


SANYA HILL MAXION, SENIOR TRIAL ATTORNEY,
U. S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

19 DATED: 8/21/07, 2007


REG LORMON
LAW OFFICES OF REG LORMON
ATTORNEY FOR PLAINTIFF-INTERVENOR

22 DATED: 8/17/07, 2007


CHRISTINE LONG
BERLINER COHEN
ATTORNEY FOR DEFENDANT

1 APPROVED AND SO ORDERED:

2 8/28/07

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4 U.S. DISTRICT JUDGE JEREMY FOGEL

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REGLORMON

PAGE 02

EXHIBIT A
[Security Agreement and UCC Financing Statement]

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003/005

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REGDORMON

PAGE 03

**SECURITY AGREEMNT
(PERSONAL PROPERTY)**

THIS SECURITY AGREEMENT is made this Fourteenth day of June, 2007

by and between Monterey Collision Frame and Body, Inc., of 2871 Monterey Road, San Jose, CA 95111, County of Santa Clara, State of California, (hereinafter "Debtor") and Joseph Michael Lowe of County of Santa Clara, State of California, (hereinafter "Secured Party").

WITNESSETH; That Debtor hereby grants to Secured Party a security interest in all that certain personal property hereinafter to be referred to as "Security" situated and described as follows:

Nova Vista K40 Prestige Spray Booth, Serial #PB980303, which is on the premises of Debtor Monterey Collision Frame & Body, Inc., all additions, replacements attachments and accretions, including insurance settlements or proceeds relating or concerning this piece of equipment and any replacement thereof, in which Debtor now or hereafter has an interest and which it is currently located at 2871 Monterey Road, San Jose, CA 95111, and given as security for payment of \$ 45,000 to Secured Party, according to the terms and conditions contained in said Consent Decree ("Decree") entered in the lawsuit entitled EEOC/Lowe vs. Monterey Collision Frame & Body, Inc., filed in the United States District Court, Northern District of California, Case No. C-06-6032-JF.

Debtor shall keep the security in good condition and repair, and shall not remove, nor permit to be removed any part of the Security from the above premises without the prior written consent of secured party, first had and obtained and shall provide, maintain and deliver to secured party satisfactory insurance policies covering said property in amounts and with insurance companies satisfactory to secured party, with loss payable, if any, payable to secured party, as secured party's interest may appear.

Debtor hereby declares and warrants to secured party that debtor is the absolute and sole owner, and is in possession of all of the Security, and that the same is free and clear of all liens, encumbrances, adverse claims, and any other security interests.

If Debtor defaults in the payment terms and conditions as provided in said Decree at the time and in the manner therein specified, or if any breach be made of any obligation, promise or warranty of debtor herein contained or secured hereby, then the whole sum unpaid, with accrued interest thereon, shall immediately become due and payable without notice at the option of secured party, and secured party may at once proceed to enforce secured party's security interest according to law; or secured party may, at secured party's option, permission for which is hereby granted, enter upon the premises where security may be and take possession thereof, or remove, sell, lease or otherwise dispose of same, and from the proceeds of sale retain all costs and charges incurred by him in the taking or sale of said property, including reasonable attorney's fees thereby incurred; take all sums due him under said Decree, including reasonable attorney's fees and any surplus of such proceeds remaining shall be paid according to law. The foregoing is without limitation to or waiver of any other rights or remedies of secured party according to law.

It is further agreed, subject to applicable law, that upon any sale of the Security according to law, or under the power herein given, that secured party may bid at said sale, or purchase the security, or any part thereof at said sale.

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REGDORON

PAGE 04

IN WITNESS WHEREOF, secured party and Debtor have executed this instrument.

DEBTOR:

MONTEREY COLLISION FRAME &
BODY INC.


By: ROB SNOW
Title: Owner

SECURED PARTY:


JOSEPH MICHAEL LOWE

08/17/2007 10:08 FAX 4083548257

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08/15/2007 11:08 4083548002

REGJORMON

PAGE 05

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (1-10 AND 12) CAREFULLY

(A) NAME & PHONE OF CONTACT AT FILER (Leave Blank)

REG J. LORMON (408) 254-6100

(B) SEND ACKNOWLEDGMENT TO: (Name and Address)

LAW OFFICES OF REG J. LORMON
258 Los Gatos Blvd.
Los Gatos, CA 95030

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only the debtor name (5a or 5b) - do not abbreviate or combine names

1a. DEBTOR'S NAME: Monterey Collision Frame and Body, Inc.

OR 1b. TRADE/DOB/CONTRACTOR'S NAME

1c. MAILING ADDRESS

2871 Monterey Road

FIRST NAME

Ben

STATE

CA

MIDDLE NAME

Jose

LAST NAME

Lormon

COUNTRY

US

1d. TAX ID# EIN (5b or 5c) (5d) TYPE OF ORGANIZATION

2871 MONTEREY CORPORATION

1e. JURISDICTION OF ORGANIZATION

California

1f. ORGANIZATIONAL IDENT#

01686342

NONE

1g. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only the debtor name (5a or 5b) - do not abbreviate or combine names

1h. DEBTOR'S NAME

OR 1i. TRADE/DOB/CONTRACTOR'S NAME

1j. MAILING ADDRESS

1k. TAX ID# EIN (5b or 5c) (5d) TYPE OF ORGANIZATION

2871 MONTEREY CORPORATION

FIRST NAME

GTV

MIDDLE NAME

LAST NAME

PORTAL ROCK

COUNTRY

US

1l. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only the debtor name (5a or 5b) - do not abbreviate or combine names

1m. DEBTOR'S NAME

OR 1n. TRADE/DOB/CONTRACTOR'S NAME

1o. MAILING ADDRESS

o/b Reg Lormon, 258 Los Gatos Blvd.

FIRST NAME

Joseph

MIDDLE NAME

Michael

LAST NAME

Lormon

COUNTRY

US

4. THE FINANCING STATEMENT covers the following collateral:

Nova Verta K40 Prestige Spray Booth, Serial #PBB0303, which is on the premises of Debtor Monterey Collision Frame & Body, Inc. located at 2871 Monterey Road, San Jose, CA.

5. ALTERNATIVE FINANCING PLACEMENT: PREFERENCE HIGH PRIORITY HIGH PRIORITY HIGH PRIORITY HIGH PRIORITY HIGH PRIORITY HIGH PRIORITY6. ALTERNATIVE FINANCING PLACEMENT: PREFERENCE HIGH PRIORITY HIGH PRIORITY HIGH PRIORITY HIGH PRIORITY HIGH PRIORITY HIGH PRIORITY

7. OPTIONAL PREFERENCE DATA

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 07/06/05)